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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,002	03/10/2004	Kurt Walker		2831

7590 06/26/2006  
Kurt Walker  
151 Fremont Avenue  
Akron, OH 44312

EXAMINER

HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/796,002

Applicant(s)

WALKER ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/10/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the coupling connecting motor shaft as recited in claim 14, and the means a compound spreader as recited in claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

1. Claim 3 is objected to because of the following informalities: lines 2-3, the recitation "an auger" should be changed to read --said motor driven auger-- since claim 3 depends on claim 1 which already recited "a motor driven auger". Appropriate correction is required.
2. Claim 4 is objected to because of the following informalities: line 2, the recitation "an auger" should be changed to read --said motor driven auger-- since claim 4 depends on claim 1 which already recited "a motor driven auger". Appropriate correction is required.
3. Claim 8 is objected to because of the following informalities: line 2, the recitation "means applicator" should be changed to read --said trigger operated applicator-- since claim 8 depends on claim 1 which already recited "a trigger operated applicator". Also, the recitation "to the said hopper" should be changed to read --to said hopper--. Appropriate correction is required.
4. Claim 9 is objected to because of the following informalities: line 1, the recitation "means trigger controlled by the operator" should be changed to read --said trigger operated applicator is controlled by an operator--. Such correction is suggested to make the claim more understandable.
5. Claim 12 is objected to because of the following informalities: a claim can not have two periods. Note: a claim begins with a capital letter and ends with a period (see cited US Patents for the claim format).

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 2 recites the limitation "said motor means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 3 recites the limitation "said motor driven auger means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 4 recites the limitation "said motor driven auger means" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 5 recites the limitation "said flexible tubing means" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 9 recites the limitations "said switch" and "said motor" in line 2. There is insufficient antecedent basis for these limitations in the claim.

12. Claim 10 recites the limitations "the handle of the applicator", "said handle" and "said motor". There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-6 and 14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Schauer et al. (2001/0003563).

Regarding claims 1 and 6, the Schauer et al. reference discloses an automatic drywall compound distribution system. The system includes a portable hopper (22), a motor driven auger (25), a motor means (26), a flexible tubing (42) attached to a trigger-operated applicator (80) which, on demand, evenly distributes the compound on to the wall. As shown in Figure 1, it is an inherent feature that compound is dumped into the hopper (22) from the top causing gravity to feed the compound to the motor driven auger.

Regarding claim 2, the system also includes a portable hopper means (constituted by the outer casing of elements 26, 28, 24) which inherently supports the hopper, the motor means and the auger (Fig. 1).

Regarding claim 3, the motor means (26) is an electric motor. As shown in Figure 1, the motor is connected to the auger and the hopper.

Regarding claim 4, the motor means (26) is used to drive the auger (25) which turns inside pipe sleeve to collect and distribute the drywall compound from the hopper into the flexible tubing (42).

Regarding claim 5, the flexible tubing (42) carries drywall compound from the hopper, powered by the auger, to the trigger-operated applicator.

Regarding claim 14, as schematically shown in Figure 1, the auger is connected on one end to the motor (26) by a coupling connecting motor shaft (at 28).

15. Claims 1-3 and 5-7, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson (3707427).

Regarding claims 1 and 6, the Erickson reference discloses an automatic drywall compound distribution system. The system includes a portable hopper (64), a motor driven screw conveyor or auger (col. 4, line 8), a motor means (68), a flexible tubing (60) attached to a trigger-operated applicator (Fig. 1) which, on demand, evenly distributes the compound on to the wall. As shown in Figure 2, it is an inherent feature that compound is dumped into the hopper (64) from the top causing gravity to feed the compound to the motor driven auger.

Regarding claim 2, the system also includes a portable hopper means (constituted by the support frame that connects to the wheels and the handle, and the plate located on the bottom of the hopper 64) which inherently supports the hopper, the motor means and the auger (Fig. 2).

Regarding claim 3, the motor means (68) is an electric motor. As shown in Figure 2, the motor is connected to the auger and the hopper.

Regarding claim 5, the flexible tubing (60) carries drywall compound from the hopper, powered by the auger, to the trigger-operated applicator.

Regarding claim 7, as schematically shown in Figure 2, the hopper includes a handle on the front side and wheels on front and rear (Fig. 2 looking straight in one wheel is in front and other wheel is behind the front wheel) for easy mobility.

### ***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3751

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 8, 9 and 11-13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schauer et al. (as discussed supra).

Regarding claims 8 and 11, the Schauer et al. reference also discloses that the applicator (80) is flat drywall spreading blade attached to the hopper by the flexible tubing with hose fasteners (about 38 and 48). The applicator includes a compound spreader (88) mounted on one side fed by compound from the flexible tubing. Even though the Schauer et al. reference does not specifically disclose that the hose fasteners are hose clamps, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Schauer et al. reference by using hose clamps. Such modification would be considered a mere choice of a preferred inexpensive, quick-disconnect fastening mechanism on the basis of its suitability for the intended use.

Regarding claim 9, the applicator includes a trigger switch (58) controlled by the operator. When the switch is depressed, the motor and auger are activated to dispense the compound to the applicator.

Regarding claim 12, the Schauer et al. reference also discloses that the flexible tubing (42) is connected to the hopper (22) by a cone shaped reducer (constituted by the element near element 38 in Fig. 1). The cone shaped reducer connects to one end of the flexible tubing by a hose connecting mechanism



(about 38) and connects to the end of the pipe sleeve on the other end via a fastening mechanism. Even though the Schauer et al. reference does not specifically disclose that the hose connecting mechanism is a hose clamp, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Schauer et al. reference by using a hose clamp. Such modification would be considered a mere choice of a preferred inexpensive, quick-disconnect fastening mechanism on the basis of its suitability for the intended use. In addition, even though the Schauer et al. reference does not specifically disclose that the other end of the cone shaped reducer including threads to mate with the sleeve, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Schauer et al. reference by using a cone shaped reducer with threads so that the cone shaped reducer could be removed for cleaning after each use.

Regarding claim 13, as schematically shown in Figure 1, the pipe sleeve is inherently slightly larger than the auger (25) to allow the auger to freely turn inside, and the top of the pipe sleeve is open allowing compound to enter the sleeve from the hopper and then be forced from the sleeve to the flexible tubing.

18. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schauer et al. (as discussed supra) in view of Dillinger (2002/0174932).

The Schauer et al. reference DIFFERS in that it does not specifically include a handle and wheels as claimed. Attention, however, is directed to the

Dillinger reference which discloses another automatic drywall compound distribution system having a hopper (11) and an auger (19). The system further includes a handle (Fig. 2) and wheels (49) on front and rear of the hopper.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Schauer et al. reference by using a handle and wheels, in view of the teaching of Dillinger, to allow the unit to be portable.

19. Claims 8-11, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson (as discussed supra).

Regarding claims 8 and 11, the Erickson reference also discloses that the applicator (Fig. 1) is flat drywall spreading blade attached to the hopper by the flexible tubing with hose fasteners (col. 4, lines 1-3). The applicator includes a compound spreader (32) mounted on one side fed by compound from the flexible tubing. Even though the Erickson reference does not specifically disclose that the hose fasteners are hose clamps, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Erickson reference by using hose clamps. Such modification would be considered a mere choice of a preferred inexpensive, quick-disconnect fastening mechanism on the basis of its suitability for the intended use.

Regarding claim 9, the applicator includes a trigger switch (76) controlled by the operator. When the switch is depressed, the motor and auger are activated to dispense the compound to the applicator.

Regarding claim 10, as shown in Figure 1, the trigger switch (76) is located on the handle (20) of the applicator and is powered by the quick lock cord (74) connected to the end of the handle and the motor.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

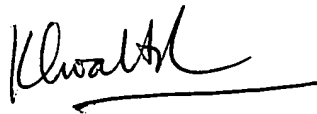
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line drawn underneath it.

Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK

06/22/2006